IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 6569 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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S P GODREJ & 1 - Applicant(s)
Versus
HASMUKHLAL CHIMANLAL SHAH & 5 - Respondent(s)

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Appearance :
MR SA DESAI for Applicant(s) : 1 - 2.
NOTICE SERVED for Respondent(s) : 1,
MR JAL SOLI UNWALA for Respondent(s) : 1,
None for Respondent(s) : 2 - 6.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 08/03/2007

ORAL JUDGMENT

1. This is one of the curious cases in which a criminal complaint filed in 1986, though the date of the complaint in the copy produced before this

Court and certified as true copy by the learned advocate is 06.03.1985, appears to have remained pending in the Court of learned Chief Judicial Magistrate for ten years and summons to answer the charge for offences under Sections 420, 406, 379, 201 and 114 of the Indian Penal Code has been issued in late 1997. Out of the petitioners who were joined as accused person Nos. 8 and 9 in the original complaint and who are petitioner Nos.1 and 2 herein, petitioner No.1 is stated to have passed away. Upon the petitioners approaching this Court under Section 482 of the Code of Criminal Procedure, 1973 (for short the 'Code') for quashing the complaint, as far as they are concerned, interim relief staying further proceeding of Criminal Case No.1520 of 1987 was granted in November, 1997 to protect the petitioners only. Despite such limited interim relief, the learned counsel on either side were unable to ascertain or make any statement as to the current position of the criminal case as against the other accused persons.

2. Going through the elaborate complaint dated 06.03.1985, the date being obviously incorrect, it clearly appears that the complainant had entered into the transaction of buying typewriters from the accused persons other than the petitioners. The petitioners were sought to be involved by absolutely vague allegations of the other accused having a telephonic talk with them or for being the manager of the company which was manufacturing the typewriters and selling them through the dealership of other accused persons. In the uphill task of showing involvement of the petitioners in the transaction, learned counsel Mr.Unwala vehemently argued that the other accused persons were in constant touch with the petitioners and even as various allegations of serious offences were made against the other accused persons, the petitioners were apprised of the dealings with their agents and they had not cared to even reply to the correspondence addressed to them by the complainant. He, however, completely failed to show any clear allegation implicating the

petitioners in any offences or acts punishable under Sections 420, 406, 379, 201 and 114 of the Indian Penal Code.

3. In the above facts and circumstances, taking the averments in the complaint at their face value and disregarding the absurdity of the allegations, it clearly appears that, on the basis of the allegations, no one can ever reasonably reach to a conclusion that there was sufficient ground for proceeding against the petitioners. Therefore, the criminal proceeding, as far as the petitioners were concerned, was manifestly attended with ulterior motive of pressuring the other accused persons into submission in the dispute which was *prima facie* of a civil nature.

4. Therefore, petition is required to be allowed and accordingly it is allowed with the direction that the complaint and the proceedings of Criminal Case No.1520 of 1987 are quashed as far as the petitioners are concerned. Rule is made

absolute with no order as to costs.

(D.H.WAGHELA, J.)

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